



Broadcasting Act 1990

1990 CHAPTER 42

PART X

MISCELLANEOUS AND GENERAL

Application of competition legislation

192 Application of provisions of Fair Trading Act 1973 to broadcasting and telecommunication services.

- (1) In section 137(3) of the ^{M1}Fair Trading Act 1973 (definition of “supply of services”), there shall be inserted after paragraph (e) “and
 - (f) includes the making of arrangements, by means of such an agreement as is mentioned in section 189(2) of the Broadcasting Act 1990, for the sharing of the use of any telecommunication apparatus (within the meaning of Schedule 2 to the Telecommunications Act 1984).”
- (2) It is hereby declared for the avoidance of doubt that the provision of a broadcasting service is not a service falling within paragraph 7 of Schedule 5 to the Fair Trading Act 1973 (restriction on making references under section 14, 50 or 51 of the Act in connection with telecommunication services) by reason of the fact that the broadcasting service is provided by means of the running of any such system as is mentioned in that paragraph.
- (3) In subsection (2) “broadcasting service” means—
 - (a) a programme service; or
 - (b) a local delivery service (within the meaning of Part II of this Act).
- (4) In Part I of Schedule 7 to the ^{M2}Fair Trading Act 1973, paragraphs 8 and 9 (provision of programmes for transmission by Independent Broadcasting Authority, or of licensed cable programme services, wholly excluded from references under section 50 or 51 of the Act) shall cease to have effect.

Status: Point in time view as at 30/12/1998.

Changes to legislation: Broadcasting Act 1990, Cross Heading: Application of competition legislation is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M1 1973 c. 41.

M2 1973 c. 41.

193 Modification of networking arrangements in consequence of reports under competition legislation.

- (1) The Secretary of State may, in any of the circumstances in which this subsection has effect, by order provide for any networking arrangements specified in the order to have effect with such modifications as appear to him to be appropriate.
- (2) Subsection (1) shall have effect in the following circumstances, namely—
 - (a) where the circumstances are as mentioned in section 56(1) of the Fair Trading Act 1973 (order on report on monopoly reference) and the monopoly situation exists in connection with the provision of programmes for broadcasting in regional Channel 3 services;
 - (b) where the circumstances are as mentioned in section 73(1) of that Act (order on report on merger reference) and one or more of the enterprises which ceased to be distinct enterprises was engaged in the provision of such programmes; and
 - (c) where the circumstances are as mentioned in section 10(1) of the ^{M3}Competition Act 1980 (order on report on competition reference) and the anti-competitive practice was pursued in connection with the provision of such programmes.
- (3) An order under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section—

“networking arrangements” means any such arrangements as are mentioned in section 39(1) above;

“regional Channel 3 service” has the meaning given by section 14(6) above;

and any expression used in this section which is also used in the Fair Trading Act 1973 or the Competition Act 1980 has the same meaning as in that Act.

Marginal Citations

M3 1980 c. 21.

194 Restrictive Trade Practices Act 1976 not to apply to networking arrangements.

- (1) The ^{M4}Restrictive Trade Practices Act 1976 shall not apply, and shall be deemed never to have applied, to any relevant networking arrangements which are specified, or are of a description specified, in an order made by the Secretary of State (whether before or after the making of those arrangements) and which satisfy such conditions as may be so specified.
- (2) In subsection (1) “relevant networking arrangements” means—
 - (a) any arrangements entered into as mentioned in section 39(4) or (7)(b) above,
 - or

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- (b) any agreement not falling within paragraph (a) but made for the purpose mentioned in section 39(1) above.
- (3) Before making an order under subsection (1) the Secretary of State shall consult the Independent Television Commission and the Director General of Fair Trading; and such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M4 1976 c. 34.

[^{F1}194A Modification of Restrictive Trade Practices Act 1976 in its application to agreements relating to Channel 3 news provision.

- (1) In this section a “relevant agreement” means an agreement—
 - (a) which is made between all holders of regional Channel 3 licences for securing the appointment by them, in accordance with conditions included in their licences by virtue of section 31A(a), of a single body corporate to be the appointed news provider for the purposes of section 31(2), or
 - (b) which is made between them and the body corporate appointed to be the appointed news provider for the purposes of section 31(2) for purposes connected with the appointment.
- (2) If a relevant agreement is registered under the ^{M5}Restrictive Trade Practices Act 1976 (“the 1976 Act”), the Director General of Fair Trading shall report to the Secretary of State as to whether it appears to the Director that the agreement falls within subsection (4).
- (3) If, on receiving a report under subsection (2), it appears to the Secretary of State that the agreement falls within subsection (4), he may give a direction to the Director requiring him not to make an application to the Restrictive Practices Court under Part I of the 1976 Act in respect of the relevant agreement.
- (4) A relevant agreement falls within this subsection if—
 - (a) those provisions of the agreement by virtue of which the 1976 Act applies to the agreement do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition, or
 - (b) all or any of those provisions have, or are intended or likely to have, that effect to a significant extent, but that the effect is not greater than is necessary—
 - (i) in the case of a relevant agreement falling within subsection (1)(a), for securing the appointment by holders of regional Channel 3 licences of a single body corporate to be the appointed news provider for the purposes of section 31(2), or
 - (ii) in the case of a relevant agreement falling within subsection (1)(b), for compliance by them with conditions included in their licences by virtue of section 31(1) and (2).
- (5) The Secretary of State may vary or revoke any direction given under subsection (3) above if he is satisfied that there has been a material change of circumstances such that—
 - (a) the grounds for the direction have ceased to exist, or

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(b) there are grounds for giving a different direction;
and where the Secretary of State so varies or revokes any direction, he shall give notice of the variation or revocation to the Director.

(6) In this section—

- (a) “agreement” and “Director” have the same meaning as in the 1976 Act, and
(b) “regional Channel 3 licence” has the same meaning as in Part I.]

Textual Amendments

F1 Shoulder heading and s. 194A inserted (24.7.1996) by 1996 c. 55, s. 77(1)(2) (with s. 43(1)(6))

Marginal Citations

M5 1976 c. 34.

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